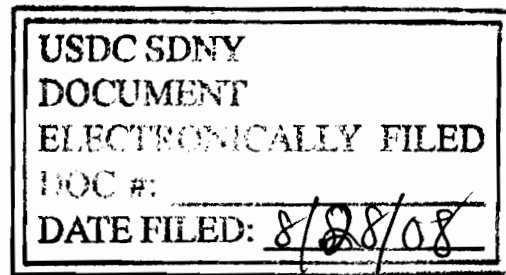


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
:  
IN RE WORLD TRADE CENTER :  
DISASTER SITE LITIGATION :  
:  
-----X

BODILY INJURY, NON-RESPIRATORY, :  
NON-INGESTION CASES :  
:  
-----X

ALVIN K. HELLERSTEIN, U.S.D.J.:

**ORDER REGARDING LIAISON  
COUNSEL**

21 MC 100 (AKH)

Among the more than 10,000 lawsuits grouped in 21 MC 100, 22 plaintiffs allege distinguishable bodily injury claims. The mass of cases allege respiratory and internal injuries and illnesses resulting from exposure to toxic material, breathed and ingested in the search, rescue, recovery and clean-up efforts at the World Trade Center site in the aftermath of the September 11, 2001 attacks. The 22 allege classic construction-site injury claims resulting from their work at the World Trade Center. Yet, because many of the defendants are the same, and the search, rescue, recovery and clean-up efforts occurred in the same time period and on the same site, the 22 cases were subsumed into the 10,000 for purposes of case administration.

Responding to comments from counsel for the 22, I came to believe that it may have been unfair and unduly expensive to continue this mode of administration, without at least trying to separate the 22 in order to enable discussions of separate and early settlements and economies of discovery. In that connection, it was important that a liaison counsel be appointed to be dedicated to these 22 cases.

On May 21, 2008, I called a conference to address these issues. Marion Mishkin, Esq., who represented seven of the plaintiffs, volunteered for the role, and I appointed her liaison counsel for the plaintiffs. Also during this conference, I directed the parties to prepare and

submit to the Court a proposed Case Management Order for the non-respiratory injury cases by May 30, 2008.

On August 7, 2008, more than two months after the deadline, I received a joint letter prepared by liaison counsel for plaintiffs and defendants, detailing the difficulties of the parties in creating the Case Management Order. In reviewing the letter, I found Ms. Mishkin's comments to be unduly lengthy and unnecessarily contentious, and that she was complicating rather than simplifying the process. Ms. Mishkin's draft Case Management Order contained superfluous and inappropriate characterizations of the claims, and purported to insert "findings" by the Court that were irrelevant to the main task at hand—facilitating the exchange of discovery between the parties. In response to the joint letter and draft Case Management Orders submitted by the parties, I endorsed the letter directing the parties to refrain in the future from "relat[ing] rhetoric, accusations, or excuses" to the Court; ruling that the caption for these cases was to be "bodily injury, non-respiratory, non-ingestion cases"; and ordering that defendants' proposed Case Management Order would be adopted unless specific objections were filed within 10 days.

On August 25, 2008, Ms. Mishkin filed "Plaintiffs' Objections to the Adoption of Specified Amendments in Pending CMO No. 1". This document is filled with prolix and frivolous objections, even taking issue with how the category of cases should be titled. The objections are presented in a manner difficult to comprehend and to resolve.


It is clear to me that Ms. Mishkin is not suitable for the role of liaison counsel, for the reasons I have described. Ms. Mishkin, whether through her own failings, or others, or mine, has introduced unnecessary expense and delay, and has burdened the Court with inappropriate and unwieldy submissions.

Consequently, Ms. Mishkin shall no longer serve as liaison counsel. The counsel representing the 22 bodily injury, non-respiratory plaintiffs shall meet and reach a consensus as to a different liaison counsel, and report same to the Court by September 26, 2008. If plaintiffs fail to do so timely, the Court will either appoint new liaison counsel from among plaintiffs' counsel or select a non-involved attorney to serve as liaison counsel with expenses apportioned among the 22 cases.

The Case Management Order drafted by Defendants is hereby adopted without change. Defendants' Liaison counsel is directed to file the Case Management Order on the Court's electronic filing system.

SO ORDERED.

Dated: August 28, 2008  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge